



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY

ONE SOUTH STATION

BOSTON, MA 02110
(617) 305-3500

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

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March 8, 2005

Bruce P. Beausejour, Esq.
Vice President and General Counsel – New England
Verizon
185 Franklin Street, 13th Floor
Boston, MA 02110

Dear Mr. Beausejour:

In response to a recent Department directive that Verizon tariff its Section 271 elements, you indicated that Verizon does not intend to offer these elements as common carriage but rather “intends to offer enterprise switching and other Section 271 arrangements in the state solely through individually-negotiated contracts based on the particular circumstances, needs and requirements of the carrier customers” (i.e., as private carriage). See January 4, 2005 Letter from Bruce P. Beausejour in D.T.E. 03-59, 03-60, 04-73, at 2. Thus, you stated that Verizon has no obligation, and does not intend at this time, to file a tariff with the Department for Section 271 elements. Id. You also noted that even where Verizon offered Section 271 elements as common carriage, the Department could not require Verizon to file a state tariff, because these services are subject to Federal Communications Commission (“FCC”) jurisdiction. Id. at 1-2. Finally, you stated that the FCC has determined that Section 271 elements should be offered through negotiated agreements. Id. at 2.

Based on the statements in your letter, the Department requests that Verizon respond to the following questions:

1. Please provide citations to FCC or court decisions to support your statement that the FCC has concluded that Section 271 elements should be provided pursuant to negotiated agreements. Also, please indicate whether the FCC has held that a negotiated agreement is the exclusive means by which Verizon can provision these services to carriers. Also, please indicate whether the FCC has held that

states may not require Section 271 elements to be tariffed pursuant to state common carrier tariffing statutes.

2. Please state whether Section 271 requires Verizon to provide network elements in a non-discriminatory manner to all carriers interested in purchasing the elements or permits Verizon to offer such network elements only to those requesting carriers with which Verizon chooses to deal in accordance with such contracts as Verizon makes with them. If Verizon is obligated under Section 271 to provide network elements in a non-discriminatory manner to all carriers, please explain whether Verizon meets the definition of a common carrier with respect to those elements.
3. Please provide an overview of the process that Verizon will employ in reaching “individually-negotiated contracts based on the particular circumstances, needs and requirements of the carrier customers.” In addition, please address the following:
 - a. Will Verizon engage in carrier-to-carrier marketing or other communications to potential carrier customers? If so, please describe the nature and content of such marketing.
 - b. Notwithstanding Verizon’s statement that it will reach individually-negotiated agreements based on requesting carriers’ particular needs and circumstances, please identify classes of carriers, if any, who, based on their particular needs and circumstances, are similarly situated and would be offered similar rates, terms, and conditions for any Section 271 element?
 - c. Does Verizon intend to establish any mandatory rates, terms, or conditions for any Section 271 network element that must be included in its final negotiated agreements? Are all rates, terms, and conditions for Section 271 network elements subject to negotiation?
4. Please explain how Verizon’s stated offering of Section 271 elements solely through “individually-negotiated contracts based on the particular circumstances, needs and requirements of the carrier customers” meets Verizon’s obligations, if any, under Section 271.

Bruce P. Beausejour, Esq.
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Please provide your responses by close of business on March 31, 2005. Thank you for your attention to this matter.

Sincerely,

Michael Isenberg, Director
Telecommunications Division

cc: D.T.E. 03-60, 04-73, 03-59 Service Lists